

ASSEMBLY BILL

No. 2335

Introduced by Assembly Member Nielsen

February 24, 2012

An act to amend Section 6540 of the Probate Code, relating to decedents' estates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2335, as introduced, Nielsen. Decedents' estates: family allowance.

Existing law provides that the surviving spouse of the decedent, minor children of the decedent, and adult children of the decedent who are physically or mentally incapacitated from earning a living and were actually dependent in whole or in part upon the decedent for support are entitled to a reasonable family allowance out of the estate as is necessary for their maintenance according to their circumstances during administration of the estate.

This bill would require that the highest priority for a family allowance is to provide for minor children of the decedent.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6540 of the Probate Code is amended to
- 2 read:
- 3 6540. (a) The following are entitled to ~~such~~ a reasonable family
- 4 allowance out of the estate as is necessary for their maintenance
- 5 according to their circumstances during administration of the estate,

1 *provided however, that the highest priority for the family allowance*
2 *is to provide for minor children of the decedent:*

3 (1) The surviving spouse of the decedent.

4 (2) Minor children of the decedent.

5 (3) Adult children of the decedent who are physically or
6 mentally incapacitated from earning a living and were actually
7 dependent in whole or in part upon the decedent for support.

8 (b) The following may be given such reasonable family
9 allowance out of the estate as the court in its discretion determines
10 is necessary for their maintenance according to their circumstances
11 during administration of the estate:

12 (1) Other adult children of the decedent who were actually
13 dependent in whole or in part upon the decedent for support.

14 (2) A parent of the decedent who was actually dependent in
15 whole or in part upon the decedent for support.

16 (c) If a person otherwise eligible for family allowance has a
17 reasonable maintenance from other sources and there are one or
18 more other persons entitled to a family allowance, the family
19 allowance shall be granted only to those who do not have a
20 reasonable maintenance from other sources.